

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
GREENEVILLE DIVISION

KEVIN WALKER

Plaintiff,

v.

RELIANCE STANDARD LIFE INS. CO.,

Defendants.

Civil Action No. 2:22-cv-00109-
TRM-CRW

PLAINTIFF'S CONCISE STATEMENT OF MATERIAL FACTS

1. Mr. Walker claims to be disabled from a constellation of symptoms he experiences as a result of post concussive syndrome including dementia and headaches. AR 615-619.
2. Reliance approved Mr. Walker for long term disability benefits on March 23, 2022. AR 233.
3. Mr. Walker continues to receive long term disability benefits to date.
4. On April 12, 2022 Reliance Standard forwarded Mr. Walker's counsel a letter, explaining that it would be offsetting his benefit for a lump sum pension distribution that he received. AR 237-240.
5. The letter noted that the plan provided:

OTHER INCOME BENEFITS: Other Income Benefits are:

(1) disability income benefits an Insured is eligible to receive because of his/her Total Disability under any group insurance plan(s) provided by you;

...(6) that part of Retirement Benefits paid for by you that an Insured is eligible to receive under a group retirement plan;... Disability and early Retirement Benefits will be offset only if such

benefits are elected by the Insured or if election would not reduce the amount of his/her accrued normal Retirement Benefits then funded. Id.

6. The plan also provides that:

LUMP SUM PAYMENTS: If Other Income Benefits are paid in a lump sum, the sum will be prorated over the period of time to which the Other Income benefits apply. If no period of time is given, the sum will be prorated over sixty (60) months. Id.

7. The letter explained that Sonoco had informed Reliance that Mr. Walker had received a lump-sum distribution from his pension in the amount of \$67,046.71. Id.
8. As a result, Reliance would be applying the pension benefits, pro-rated over 60 months, as an offset to Mr. Walker's monthly benefit. Id.
9. Mr. Walker appealed this decision on July 6, 2022, explaining that although the plan allows an offset for pension benefits, it also provides that it will be prorated over the period of time to which the other income benefits apply. AR 841- 852.
10. Mr. Walker submitted documentation from his employer showing that the pension lump sum was intended to apply to the period after his retirement. Id.
11. Because Mr. Walker's retirement is a time after he would no longer be eligible for benefits, it is inappropriate for Reliance to apply the offset for the next 60 months. Id.
12. Under ERISA, Reliance had 45 days to decide Mr. Walker's appeal of the offset. 29 C.F.R. §2650.503-1(i)(3)(i).
13. On August 20, 2022, the date its decision was due, Reliance did not forward a decision.
See generally Relevant Portions of the Administrative Record.
14. Mr. Walker filed this complaint on September 13, 2022, and at that time, Reliance still had not made a decision. See. Compl.

Respectfully submitted,

/sHudson Ellis

Hudson T. Ellis (B.P.R. #28330)

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of this the foregoing document has been served upon all parties of interest in this case, filing it with the Court's electronic case filing and through their counsel of record:

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This the 3rd of March, 2023

/s/ Hudson T. Ellis
Hudson T. Ellis